

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

ERNEST NICHOLS, JR.,)	
)	
Plaintiff,)	
)	
v.)	No. 1:21-cv-01003-JPH-TAB
)	
MATT MYERS,)	
)	
Defendant.)	

**ORDER GRANTING MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*,
SCREENING COMPLAINT, AND DIRECTING SERVICE OF PROCESS**

I.
In Forma Pauperis Status

The plaintiff's motion to proceed *in forma pauperis*, dkt. [3], is **granted**.

II.
Screening Standard

The plaintiff was a prisoner when he filed his original complaint which was screened pursuant to 28 U.S.C. § 1915A(b). This case was severed from the original complaint after the plaintiff was released from jail. In any event, this Court has the inherent authority to screen the complaint on its own. *See Mallard v. U.S. Dist. Ct.*, 490 U.S. 296, 307-08 (1989) (in forma pauperis statute "authorizes courts to dismiss a 'frivolous or malicious' action, but there is little doubt they would have power to do so even in the absence of this statutory provision."); *Rowe v. Shake*, 196 F.3d 778, 783 (7th Cir. 1999) ("[D]istrict courts have the power to screen complaints filed by all litigants, prisoners and non-prisoners alike, regardless of fee status."). This step shall be taken in this case.

To satisfy the notice-pleading standard of Rule 8 of the Federal Rules of Civil Procedure, a complaint must provide a "short and plain statement of the claim showing that the pleader is

entitled to relief," which is sufficient to provide the defendant with "fair notice" of the claim and its basis. *Erickson v. Pardus*, 551 U.S. 89, 93 (2007) (per curiam) (citing *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) and quoting Fed. R. Civ. P. 8(a)(2)); *see also Tamayo v. Blagojevich*, 526 F.3d 1074, 1081 (7th Cir. 2008) (same). The Court construes *pro se* pleadings liberally and holds *pro se* pleadings to less stringent standards than formal pleadings drafted by lawyers. *Perez v. Fenoglio*, 792 F.3d 768, 776 (7th Cir. 2015).

III. Screening the Complaint

The complaint alleges that defendant Sheriff Matt Myers placed the plaintiff in segregation without a disciplinary action or hearing in violation of his due process rights. He seeks monetary damages.

It is unclear from the complaint whether the plaintiff was a pretrial detainee or convicted inmate while he was incarcerated at Bartholomew County Jail. For the purposes of screening the complaint, the Court presumes he was a pre-trial detainee and analyzes his claims under the objective unreasonableness standard of the Fourteenth Amendment. *Miranda v. Cty. of Lake*, 900 F.3d 335, 352 (7th Cir. 2018).

A person held in confinement as a pretrial detainee may not be subjected to any form of punishment for the crime for which he is charged. *See Bell v. Wolfish*, 441 U.S. 520, 535 (1979). "A pretrial detainee cannot be placed in segregation as a punishment for a disciplinary infraction without notice and an opportunity to be heard; due process requires no less." *Higgs v. Carver*, 286 F.3d 437, 439 (7th Cir. 2002).

The plaintiff's Fourteenth Amendment claim against Sheriff Myers **shall proceed**.

**IV.
Conclusion and Service of Process**

The plaintiff's Fourteenth Amendment claim against Sheriff Matt Myers is proceeding in this action. If the plaintiff believes that additional claims were alleged in the complaint, but not identified by the Court, he shall have **through May 28, 2021**, in which to identify those claims.

The **clerk is directed** pursuant to Fed. R. Civ. P. 4(c)(3) to issue process to defendant Myers in the manner specified by Fed. R. Civ. P. 4(d). Process shall consist of the complaint, dkt. [2], applicable forms (Notice of Lawsuit and Request for Waiver of Service of Summons and Waiver of Service of Summons), and this Order.

SO ORDERED.

Date: 5/3/2021



James Patrick Hanlon
United States District Judge
Southern District of Indiana

Distribution:

ERNEST NICHOLS, JR.
120091
1432 Sycamore Street
Columbus, IN 47201

SHERIFF MATT MYERS
BARTHOLOMEW COUNTY JAIL
543 2nd St
Columbus, IN 47201